

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAVID SABINO QUAIR, III,

Plaintiff,

v.

OFFICER CRU, et al.,

Defendants.

No. 1:21-cv-00560-NONE-SKO

ORDER ADOPTING FINDINGS AND
RECOMMENDATION

(Doc. No. 7)

On April 2, 2021, plaintiff David Sabino Quair, III, a state prisoner proceeding *pro se*, filed a civil rights action pursuant to 42 U.S.C. § 1983 (Doc. No. 1) and requested leave to proceed *in forma pauperis* (“IFP”) pursuant to 28 U.S.C. § 1915 (“section 1915”) (Doc. No. 2). On April 21, 2021, the assigned magistrate judge vacated the amended order granting plaintiff’s IFP application (*see* Doc. No. 4) and issued findings and recommendations that the IFP application be denied, because prior to filing suit, plaintiff had accrued more than three “strike” dismissals under section 1915(g). (Doc. No. 5.) Furthermore, plaintiff’s complaint failed to show that plaintiff was under imminent danger of serious physical injury at the time he filed this action. (*See id.* at 2–3.)

On June 28, 2021, the undersigned adopted the findings and recommendations in full, denied plaintiff’s IFP application, and directed plaintiff to pay the filing fee of \$402 within 30 days of the date of service of the order.¹ (Doc. No. 6.) When served at plaintiff’s address of

¹ The order was signed on June 25, 2021, and docketed on June 28, 2021.

record, the June 28, 2021 order was returned as undeliverable on July 7, 2021. (*See* Docket.)

Local Rule 183(b) provides that:

A party appearing in propria persona shall keep the Court and opposing parties advised as to his or her current address. If mail directed to a plaintiff in propria persona by the Clerk is returned by the U.S. Postal Service, and if such plaintiff fails to notify the Court and opposing parties within sixty-three (63) days thereafter of a current address, the Court may dismiss the action without prejudice for failure to prosecute.

E.D. Cal. L.R. 183(b). Although more than 63 days have passed since the U.S. Postal Service returned the court's June 28, 2021 order as undeliverable, plaintiff has failed to notify the court of his current address.

On September 28, 2021, the assigned magistrate judge issued findings and recommended that the case be dismissed without prejudice for failure to prosecute this action. (Doc. No. 7.) Plaintiff was granted twenty-one (21) days in which to file objections to the findings and recommendation. (*Id.*) No objections have been filed, and the time do so has expired.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a *de novo* review of the case. Having carefully reviewed the entire file, the court finds that the findings and recommendation are supported by the record and proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendation issued September 28, 2021 (Doc. No. 7) are adopted in full;
2. This action is dismissed without prejudice based on plaintiff's failure to prosecute this action; and
3. The Clerk of Court is directed to assign a district judge to this matter for the purposes of closure and then to close this case.

IT IS SO ORDERED.

Dated: November 1, 2021


UNITED STATES DISTRICT JUDGE